

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

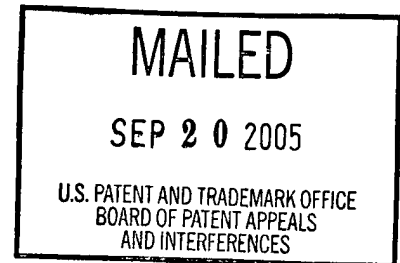
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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte HARTWIG SCHLESIGER,  
MARTIN MORNING,  
GUNTER WEBER,  
VOLKER ECKHARDT,  
GERD SONNENBERG, and  
RENE KIESEWETTER

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Application No. 09/785,905

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was electronically received at the Board of Patent Appeals and Interferences on August 2, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

A review of the file indicates that on February 25, 2004, appellants filed an Appeal Brief under the rules set forth in 37 CFR § 41.37(c), which states in part:

(c)(1) The brief shall contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(I) through (c)(1)(x) of this section, except that a brief filed by an appellant who is not

represented by a registered practitioner need only substantially comply with paragraphs (c)(1)(i) through (c)(1)(iv) and (c)(1)(vii) through (c)(1)(x) of this section:

(v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each claim involved in the appeal, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

A review of the application reveals that the following sections are missing from the Appeal Brief filed November 15, 2004:

(1) "*Summary of claimed subject matter*" as set forth in 37 CFR § 41.37(c)(1)(v).

Accordingly, the Appeal Brief filed on February 25, 2004 does not comply with the new rules under 37 CFR § 41.37(c). It is required that a substitute Appeal Brief be submitted that is in compliance with 37 CFR § 41.37(c). For more information on the Board's new rules, please see the web page entitled "More Information on the Rules of Practice Before the BPAI," Final Rule at:

<http://www.uspto.gov/web/offices/dcom/bpai/fr2004/moreinfo.html>

Additionally, the Examiner's Answer mailed March 31, 2005 does not contain a section entitled "Evidence Relied Upon" listing the prior art relied upon by the Examiner.

Accordingly, it is

ORDERED that the application is returned to the examiner to:

(1) hold the Appeal Brief filed on February 25, 2004 defective;

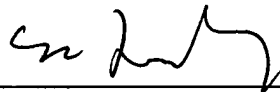
(2) to notify appellants to file a substitute Appeal Brief in compliance with 37 CFR § 41.37;

(3) for the examiner to consider the substitute Appeal Brief, vacate the Examiner's Answer mailed March 31, 2005, and issue a revised Examiner's Answer listing the prior art relied;

(4) have a complete copy of the substitute Appeal Brief and any subsequent Examiner's Answer scanned into the record; and

(5) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES



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